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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,989	11/07/2005	Bruce Stanley Gunton	SWIN 3311	1040
7812 7590 12/03/2008 SMITH-HILL AND BEDELL, P.C. 16100 NW CORNELL ROAD, SUITE 220 BEAVERTON, OR 97006				
EXAMINER				
GLASS, ERICK DAVID				
ART UNIT		PAPER NUMBER		
2837				
MAIL DATE		DELIVERY MODE		
12/03/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,989

Applicant(s)

GUNTUN, BRUCE STANLEY

Examiner

Erick Glass

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56-75 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 56-75 is/are rejected.
7) ☒ Claim(s) 65 and 75 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 19 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/6/06 1/18/07
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 65, and 75, are objected to because of the following informalities: Claims contain the language "the or", which is not understood where it is placed and unnecessary. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 56, 57, 59-67, and 69-75 are rejected under 35 U.S.C. 102(b) as being anticipated by McCloskey (US 4,713,591).

With respect to claim 56, McCloskey teaches an aperture (column 1, lines 6-14) closure member control arrangement, comprising: pulse means (column 3, lines 12-21) operable to create a train of pulses as the closure member moves; counter means (fig. 2, 26) operable to count pulses of the train; control means operable (column 3, lines 30-45) to determine the position of the closure member from the pulse count and to provide an output for modifying the manner in which the closure member is driven, in accordance with the predetermined position; wherein the control means determines at least one speed change position (column 3, lines 46-54, "speed change" is when A equals B, "reversing" is area from there to limit of travel) and a reversing position and causes, in use, the speed of the closure member to change as the closure

member passes the speed change position in at least one direction, and causes, in use, the response to an obstruction to change as (column 4, lines 19-35) the closure member passes the reversing position in at least one direction.

With respect to claim 57 and 67, McCloskey teaches wherein the pulse train is created, in use, by a sensor (fig. 2, 25) responsive to one or more features of an item driven by a drive means which drives the closure member.

With respect to claim 59 and 69, McCloskey teaches wherein the counter means, in use, counts pulses created by different means at different positions (column 3, lines 12-21) of the closure member.

With respect to claim 60 and 70, McCloskey teaches wherein the choice of pulses to be counted is changed (column 3, lines 46-54) as the closure member passes the speed change position.

With respect to claim 61, McCloskey teaches wherein a speed change position is located near a fully open or fully closed position of the closure member, and the closure member is caused, in use, to slow down as the closure member passes the speed change position in the direction of the fully open or fully closed position (column 3, lines 46-54).

With respect to claim 62 and 72, McCloskey teaches wherein speed change positions are located near a fully open and near a fully closed position (column 3, lines 46-54).

With respect to claim 63, McCloskey teaches wherein the reversing position is located near the fully closed position of the closure member, and the closure member is caused, in use, to re-open when obstructed while closing, unless the closure member is between the reversing position and the fully closed position (column 4, lines 19-35).

With respect to claim 64 and 74, McCloskey teaches wherein the closure member is caused, in use, to stop when obstructed while closing, if the closure member is between the reversing position and the fully closed position (column 4, lines 19-35).

With respect to claim 65 and 75, McCloskey teaches wherein the reversing position is between the fully closed position and the or the corresponding speed change position (column 3, lines 46-54, "speed change" is when A equals B, "reversing" is area from there to limit of travel).

With respect to claim 66, McCloskey teaches a method of controlling an aperture (column 1, lines 6-14) closure member, in which a train of pulses (column 3, lines 12-21) is created as the closure member moves, pulses of the train are (fig. 2, 26) counted and the pulse count is used to determine the position (column 3, lines 12-21) of the closure member and to modify the manner in which the closure member is driven, in accordance with the determined position, wherein at least one speed change position (column 3, lines 46-54, "speed change" is when A equals B, "reversing" is area from there to limit of travel) and a reversing position are defined, and the speed of the closure member changes as the closure member passes the speed change position in

at least one direction, and the response to an obstruction changes as the closure member passes the reversing position in at least one direction (column 4, lines 19-45).

With respect to claim 71, McCloskey teaches wherein the closure member is slowed down as the closure member passes the speed change position in the direction of the fully open or fully closed position (column 3, lines 46-54).

With respect to claim 73, McCloskey teaches wherein the closure member is caused, in use, to re-open when obstructed while closing, unless the closure member is between the reversing position and the fully closed position (column 4, lines 19-45).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 58 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCloskey (US 4,713,591) in view of Boisvert (PGPUB 2002/0101210)

With respect to claim 58 and 68, McCloskey does not teach wherein the pulse train is created, in use, by commutation of a DC motor used to drive the closure member. Boisvert teaches wherein the pulse train (paragraph 0006) is created, in use, by commutation of a DC motor used to drive the closure member. It would have been obvious to one having ordinary skill in the art at the time the invention was made

to use commutation pulses, since it was known in the art that commutation is regularly used for position detection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick Glass whose telephone number is (571)272-8395. The examiner can normally be reached on 9-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on 571-272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erick Glass/
Examiner, Art Unit 2837
/Walter Benson/
Supervisory Patent Examiner, Art Unit 2837

